

## **STUDENT DISCIPLINARY AND APPEALS PROCEDURE**

The purpose of this procedure (hereinafter referred to as the Student Disciplinary and Appeals Procedure) is to create a hearing process for use by the Administrative Committee (hereinafter sometimes referred to as “the Committee”) to resolve the student disciplinary matters enumerated herein.

### **I. DEFINITIONS**

#### **A. Class Day**

The term “class day” includes:

1. any day falling during the Law School’s fall semester, spring semester or summer session on which classes or examinations are regularly scheduled; and
2. any day not falling during the Law school’s fall semester, spring semester or summer session that is a weekday other than a legal holiday

#### **B. Customary Procedures of the Administrative Committee**

The term “customary procedures of the Administrative Committee” means the procedures of the Administrative Committee other than the Student Disciplinary and Appeals Procedure.

#### **C. Members of the Committee Entitled to Vote on the Question**

1. The term “members of the Committee entitled to vote on the question” includes (1) all regular members of the Committee who are not disqualified from participating in the proceeding, and (2) all alternate members not disqualified from participating in the proceeding who are required to substitute for regular members disqualified from participating in the proceeding
2. A member of the Committee is disqualified from participating in a proceeding if:
  - a. he or she is a dean; or
  - b. he or she is not a full-time or emeritus faculty member of the Faculty Council; or
  - c. he or she is on leave at the commencement of the proceeding or will go on leave prior to the probable termination of the proceeding; or
  - d. he or she is unable to participate in the proceeding because of illness or other reason; or
  - e. his or her participation in the proceeding otherwise would or might involve a conflict of interest. If it is claimed that a member of the Committee is disqualified by reason of a conflict of interest and such member contests the claim, he or she shall be disqualified only by a majority vote of the other members of the Committee entitled to vote on the question. The term “conflict of interest” includes “bias.”

#### **D. Parties**

The term “party” means the accused or a complaining party. A complaining party (sometimes hereinafter referred to as “complainant”) may be the dean or the Honor Board. The dean may designate a representative to act as the complaining party. The Honor Board may designate a single member to participate as the complaining party.

## II. HEARING BODY

### A. In General

The student disciplinary matters enumerated herein shall be heard and resolved by the Administrative Committee in accord with the Student Disciplinary and Appeals Procedure.

### B. Interim Vacancies

1. If a member of the Committee dies, retires, or resigns from the Law School faculty, or ceases to qualify or act as a member of the Committee, or is disqualified from participating in a particular proceeding because of illness or conflict of interest or other reason, an alternate shall be appointed by the dean to serve on the Committee for the duration of such proceeding.
2. If, because of the circumstances of a particular proceeding, additional alternate members are required for the proper functioning of the Committee, they shall be appointed by the dean to serve for the duration of such proceeding.

### C. Chairperson

If the chairperson of the Committee is disqualified from participating in a particular proceeding, then he or she shall appoint a member of the Committee entitled to vote on the question to be the acting chairperson for purposes of such proceeding. All references in the Student Disciplinary and Appeals Procedure to “chairperson” shall include “acting chairperson” where appropriate.

## III. JURISDICTION

### A. Jurisdiction over Matters Referred to the Committee by the Dean

1. Upon a referral from the dean, the Committee shall hear and take action on charges of student conduct or behavior which is not clearly within the jurisdiction expressly granted to the Honor Board by the Honor Code and which is inconsistent with the conduct or character expected of a member of the bar or member of the law school community, including but not limited to conduct:
  - a. that violates official academic or administrative policies or regulations of the University System of Maryland, University of Maryland Baltimore or the School of Law; or
  - b. that violates the criminal law; or
  - c. that, in a person admitted to the bar, would warrant the imposition of sanctions by the Court of Appeals; or
  - d. that endangers the safety of the student or other persons or of property belonging to the University or other persons; or
  - e. that otherwise is detrimental to the best interests of the Law School.
2. Powers of the Committee  
If the Committee, pursuant to the procedures set forth below, finds the charges to be proven, it shall have the power by vote of a majority of its members entitled to vote on the question, to exclude permanently or to suspend the student from the Law School, or to impose such other sanctions as it deems appropriate.

### B. Jurisdiction Over Matters Referred by the Honor Board

1. The Committee shall hear and take action on

- a. matters referred to it by the Honor Board for original disposition as provided in Section V(F) of the Honor Code (“Complaints Against Graduating Students”);
  - b. student appeals from adverse decisions of the Honor Board as provided in Section V(E) of the Honor Code (“Complaints Against Students Outside of Spring and Fall Semesters”);
  - c. matters referred to it for original disposition as provided in Section V(I) of the Honor Code (“Complaints Against Master of Science in Law (MSL) Students”); and
  - d. requests by the Honor Board for the imposition of sanctions pursuant to Section VI of the Honor Code (“Sanctions”).
2. Powers of the Committee
- If a student is found or pleads guilty to a violation of the Honor Code, the Committee shall have the power, by vote of a majority of its members entitled to vote on the question, to exclude permanently or to suspend the student from the Law School, or to impose such other sanctions as it deems appropriate, as provided in Section VI of the Honor Code.

#### **IV. APPEALS**

##### **A. Finality of Committee Actions**

Actions of the Committee shall be final, unless appealed by the student to the Faculty Council within fourteen days after his or her receipt of the determination of the Committee.

##### **B. Appeal to the Faculty Council**

###### **1. Grounds for Appeal**

Actions of the Committee shall be reviewed by the Faculty Council only on the grounds that

- a. the Committee did not comply with the Student Disciplinary and Appeals Procedure; or
- b. the Committee acted arbitrarily or capriciously in making findings of fact or in imposing sanctions. Absent a showing of such arbitrary or capricious conduct, the Committee’s findings of fact and imposition of sanctions shall be binding upon the Faculty Council.

###### **2. Appeal on the Record**

Absent a showing that the Student Disciplinary and Appeals Procedure was not substantially complied with, appeals from actions of the Committee shall be on the record and not de novo.

#### **V. PROCEDURES**

##### **A. Procedures Applicable to all Proceedings of the Committee**

###### **1. All requirements of notice and delivery of documents or communications**

- a. to a student shall be satisfied by mailing all documents and communications required under the Student Disciplinary and Appeals Procedure to the student at his or her last-known address as such address

appears in the Law School records. Receipt of all documents or communications mailed to the student shall be presumed three business days after the date of mailing. A copy of such document or communication also shall be emailed to the student's last-known email address.

- b. to the Committee shall be satisfied by hand delivery to the Chairperson of the Committee, or by emailing the Chairperson from a Law School email address.
  - c. to other persons shall be satisfied by hand delivery or, if the person
    1. is a dean or a member of the Faculty Council, by emailing all documents and communications required under the Student Disciplinary and Appeals Procedure to such person from a Law School email address; or
    2. is neither a dean nor a member of the Faculty Council, by mailing all documents and communications required under the Student Disciplinary and Appeals Procedure to such person at his or her last-known address maintained by the law school; provided, however, that if the person has an email address already used in communications with the Committee Chairperson, that all documents and communications may be emailed to that email address from a Law School email address.
2. Right to Counsel
- The student may, but need not, be represented by legal counsel or other representative. The Committee and the complaining party may request the advice or assistance of, or be represented by, the Office of the Attorney General or other counsel designated by the Office of the Attorney General. Counsel to the Committee shall be an individual who has not played any role in the development or presentation of the case of the complaining party.
3. Hearings
- a. Hearings shall take place only in the presence of a majority of the members of the Committee entitled to vote on the question, and shall be conducted by the chairperson or acting chairperson of the Committee.
  - b. All hearings shall be closed, except that the following persons may, with approval of the chairperson and a majority of members in attendance, at all times be present:
    1. the student, the complainant or appellee, and members of the law school faculty who are not sequestered witnesses;
    2. counsel for the Committee and counsel for the complaining party;
    3. legal counsel, if any, for the student, or other persons not in excess of two whose function is to assist the student in the presentation of evidence or arguments;
    4. in proceedings involving matters originally referred to the Honor Board, members of the Honor Board; and
    5. other persons, if they will or may be called as witnesses and their names are given in writing by the person who intends to call them to the Committee at a time in advance of the hearing to be set by

the Committee, provided that the Committee may require the sequestration of any such person until his or her testimony is needed; and

- c. If the student, in writing, requests an open hearing, it shall be within the absolute discretion of the Committee to grant or deny the request, and to limit the number of additional persons permitted to attend the hearing.
4. Witnesses
    - a. It is the sole responsibility of each party to arrange for the presence at the hearing of any person whom he or she wishes to call as a witness, and the non-availability of such person shall not, absent exceptional circumstances, be grounds for postponing, delaying or otherwise continuing the hearing.
    - b. The members of the Law School community shall cooperate in the development and presentation of information and evidence. For failure to cooperate, the Committee may present a memorandum of the circumstances to the dean.
  5. Evidence
    - a. The chairperson of the Committee shall conduct the hearing informally, allowing each party the opportunity to present his/her evidence and arguments. Questioning of a party and witnesses by the other party and the Committee also shall be permitted.
    - b. Formal rules of evidence shall not apply, and the committee may receive documentary evidence in the form of copies or excerpts as well as originals and oral testimony, but the chairperson
      1. may refuse to hear evidence on grounds of incompetence or immateriality or insufficient relevance or undue repetition;
      2. may exclude written statements proffered solely in lieu of testimony of persons who are reasonably available to testify; and
      3. shall recognize claims of privilege and confidentiality that would be upheld in the courts of this State.
  6. The Committee may set reasonable time limits for the presentation of testimony.
  7. Record of Hearing

A record of the hearing, including all testimony and exhibits, shall be maintained by the Committee. All oral evidence shall be audio-recorded. A copy of the audio-recording and all written evidence shall be kept on file by the Law School for at least five years and made available to both parties on request. If the hearing is closed, all records of the hearing will be confidential and available only to the parties, their representatives, the Faculty Council, the School of Law, the University of Maryland, the State Board of Law Examiners, the Court of Appeals, and the legal counsel of any of them. The audio-recording will not be transcribed for the parties by the Committee or at its expense. If the accused is found not guilty, all records of the accusation and the proceedings shall be sealed and available only to the accused or to his or her designate upon the request of the accused.
  8. Continuances and Extensions of Time

A request from a party for a continuance shall not be granted by the Committee

except under exceptional circumstances. Requests based upon avoidable delay in obtaining counsel, schedule conflicts, transportation difficulties and routine problems of case preparation ordinarily will not be granted. The Committee may, in its discretion, require independent verification (such as certification by a physician) in support of a continuance request. Failure of a party to attend a properly scheduled hearing shall not be grounds for delaying the hearing. The Committee may extend any deadline for good cause shown if not unduly prejudicial to any party concerned.

9. Written Determinations

In all matters the Committee's determinations shall be reduced to writing, dated, and signed by the chair or the chair's designee. Copies of the writing shall be delivered to the student and the dean within a reasonable period after the hearing.

**B. Procedures Applicable to Matters Referred to the Committee by the Dean**

1. Initiation of Proceedings

Except as provided in Paragraph V.C hereof, the dean shall initiate proceedings by delivering to the Committee a written statement of charges with respect to the student. The statement shall

- a. allege that the student has engaged in conduct or behavior described in Paragraph III.A.1;
- b. set forth with reasonable particularity the facts and circumstances on which these allegations are based, including the names of the complaining witnesses, if any;
- c. specify the sanctions the Committee is requested to impose; and
- d. be signed by the dean as complainant.

The statement of charges must be delivered to the Committee while the student is enrolled in the Law School.

2. Within seven class days after the statement of charges is received by it, the Committee shall deliver a copy of the statement of charges to the student.
3. The student shall, within twenty-one days after receipt of the statement of charges from the Committee, deliver to the Committee and the dean a signed written answer to the statement of charges. If the student fails to submit a proper and timely answer, the Committee may consider such failure as an admission of all allegations made in the statement of charges and find the charges to be so proven.
4. When the committee is satisfied that the statements of the parties have adequately presented the issues, it shall set a hearing date and shall give reasonable notice, which shall not be less than fourteen days, of the time and place of the hearing to the student, to the dean, and to each witness whose name is known to the Committee.
5. Deliberations, Findings and Sanctions
  - a. At the conclusion of the hearing, the Committee shall meet in executive session to determine with respect to each charge, by vote of a majority of

its members entitled to vote on the question, whether it has been proven by a preponderance of the evidence and, if so, what action, if any, shall be taken with respect to the student pursuant to Paragraph III hereof. In determining these matters, the Committee shall consider only the evidence made part of the record of the hearing, the legal arguments presented by the parties, and the advice of counsel to the Committee, which may be requested by the Committee before or during its executive session.

- b. The Committee's determination shall be reduced to writing, dated and signed by the chairperson or his or her designate. The writing shall include the charges made concerning the student, a summary of the evidence presented, the Committee's findings on each charge, the action to be taken by the Committee concerning the student, and supporting reasons for such findings and action. Copies of the writing shall be delivered to the student and the dean within a reasonable period after the hearing

### **C. Procedures Applicable to Matters Referred to the Committee by the Dean - Summary Suspension**

#### **1. Initiation of Proceedings**

The dean, with the approval of the president of the University of Maryland at Baltimore and after consultation with the Office of the Attorney General or other counsel designated by the Office of the Attorney General, may suspend a student without first referring the matter to the Committee ("summary suspension") when there is reason to believe that the student's presence on campus or participation in Law School programs imminently endangers the safety of the student or other persons or of property belonging to the University or other persons, provided that

- a. the dean or a representative of the dean shall inquire into the allegations on which the summary suspension is based before such action is taken; and
- b. if feasible, the student shall be allowed an opportunity to be heard in his or her own defense before such action is taken.

#### **2. Procedure Following Summary Suspension**

Following summary suspension,

- a. the student shall be notified promptly in writing that he or she has been suspended and may obtain an expedited hearing before the Committee by delivering to the dean, within three class days after the student's receipt of the notice of suspension, a written request for such hearing signed by the student; and
- b. pending a hearing, the student may be readmitted provisionally to the Law School by the dean, subject to such conditions as the dean in his or her discretion may impose, if the dean finds it in the best interests of the Law School to do so. If the student is provisionally readmitted to the Law School by the dean, he or she shall not be entitled to an expedited hearing.

#### **3. Expedited Hearing—Procedure**

If the student properly requests an expedited hearing,

- a. the dean shall, within two class days after receiving such request, deliver to the Committee and to the student a copy of such request together with a statement of charges that conforms to the requirements of Paragraph V.B.1 hereof; and
  - b. the student shall, within two class days after receipt of the statement of charges, deliver to the Committee and the dean a signed written answer to the statement of charges. If the student fails to submit a proper and timely answer, the Committee may consider such failure as a waiver of the student's right to obtain an expedited hearing.
  - c. Upon timely receipt of the student's answer to the statement of charges, the Committee shall set a hearing date which shall not be less than one class day nor more than three class days after its receipt of the student's answer, and shall give to the dean and to the student and to each witness whose name is known to the Committee at least one class day's notice of the time and place of hearing.
  - d. The requirements of Paragraph V.B.5 hereof, relating to "Deliberations, Findings and Sanctions," shall apply to an expedited hearing held pursuant to this Paragraph V.C.3, except that copies of the Committee's written determination shall be delivered to the student and the dean within three class days from the conclusion of the expedited hearing.
4. Non-Expedited Hearing – Procedure
- If the student does not properly request an expedited hearing or is provisionally readmitted to the Law School by the dean, the dean shall, within five class days after notifying the student of the summary suspension, refer the matter to the Committee for disposition in accord with the procedures set forth in Paragraph V.B.

**D. Procedures Applicable to Matters Discovered By the Committee**

1. Action by the Committee

If a potential student disciplinary matter or potential honor code violation initially comes to the attention of the Administrative Committee in the course of performing its functions under the Student Disciplinary and Appeals Procedure, then the Administrative Committee may, at its discretion, initiate proceedings pursuant to Rule V.A., refer the matter to the Honor Board, or refer the matter to the dean.

2. Referral to the Honor Board

If a potential honor code violation initially comes to the attention of the Administrative Committee in the course of performing its functions other than under the Student Disciplinary and Appeals Procedure, then the Administrative Committee shall refer such matter to the Honor Board

3. Referral to the Dean

If a potential student disciplinary matter initially comes to the attention of the Administrative Committee in the course of performance of its functions other

than under the Student Disciplinary and Appeals Procedure, then the Administrative Committee shall refer such matter to the dean.

**E. Expedited Hearing – Procedure**

1. If the dean initiates proceedings hereunder against a student within four weeks prior to the student's expected graduation from the Law School, the student may obtain an expedited hearing before the Committee by delivering to the Committee and the dean, within three class days after the student's receipt of the written statement of charges, a signed written request for such hearing together with a signed written answer to the statement of charges. If the student fails to submit a proper and timely request or answer, the Committee may consider such failure as a waiver of the student's right to obtain an expedited hearing.
2. Upon timely receipt of the student's answer to the statement of charges, the Committee shall set a hearing date which shall not be less than one class day nor more than three class days after its receipt of the student's answer, and shall give to the dean and to the student and to each witness whose name is known to the Committee at least one class day's notice of the time and place of the hearing.
3. The requirements of Paragraph V.B.5 hereof, relating to "Deliberations, Findings and Sanctions," shall apply to an expedited hearing held pursuant to this Paragraph V.E, except that copies of the Committee's written determination shall be delivered to the student and the dean within three class day from the conclusion of the expedited hearing.

**F. Procedures Applicable to Matters Referred to the Committee for Original Disposition Pursuant to Section V(F)(2)(b)(i) of the Honor Code ("Complaints Against Graduating Students")**

1. Initiation of Proceedings  
When a complaint that a student has violated the Honor Code is referred to the Committee pursuant to Section V(F)(2)(b)(i) of the Honor Code, the chairperson of the Honor Board shall deliver the following items to the Committee: the original written complaint made to the Honor Board with respect to the student; a written summary, signed by the chairperson of the Honor Board with respect to the student; a list of all relevant witnesses whose names are known to the Honor Board; and all relevant documentary evidence and audio-recordings in the possession of the Honor Board. Such delivery shall be made within one class day after the chairperson of the Honor Board receives notification that the student's request to have the matter resolved by the Committee was granted pursuant to Section V(F)(2)(b)(i) of the Honor Code.
2. Preliminary Determination – Dismissal  
Within two class days after the Committee has received the documents specified in Paragraph V.F.1 hereof, it shall determine whether there is any reasonable basis in fact for the complaint. If the Committee determines that there is no reasonable basis in fact for the complaint, it shall dismiss the complaint and promptly notify the student, the dean and the chairperson of the Honor Board of the dismissal.

3. Preliminary Determination – Reasonable Basis to Proceed

If the Committee determines that there is a reasonable basis in fact for the complaint, the Committee shall, within two class days after making such determination,

- a. Notify the student, the dean and the chairperson of the Honor Board of such determination; and
- b. Deliver to the student those items delivered to the Committee by the chairperson of the Honor Board pursuant to Paragraph V.F.1 hereof.
- c. The student shall, within two class days after receipt of the notification and documents from the Committee, deliver to the Committee a signed written answer to the complaint and deliver a copy of such answer to the dean and the chairperson of the Honor Board. If the student fails to submit a proper and timely answer, the Committee may consider such failure as an admission of all allegations made in the complaint.
- d. Upon timely receipt of the student's answer, the Committee shall set a hearing date which shall not be less than one class day nor more than three class days after its receipt of the student's answer, and shall give to the student and the dean, and the chairperson of the Honor Board, and to each of the witnesses known to the Committee at least one class day's notice of the time and place of the hearing.
- e. The requirements of Paragraph V.B.5 hereof, relating to "Deliberations, Findings, and Sanctions," shall apply to a hearing held pursuant to this Paragraph V.F.3, except that copies of the Committee's written determination shall be delivered to the student, the dean and the chairperson of the Honor Board within three class days from the conclusion of the hearing.

**G. Procedures Applicable to Matters Referred to the Committee for the Imposition of Sanctions Pursuant to Section VI of the Honor Code, and to Appeals by Students from Adverse Decisions of the Honor Board Pursuant to Section V(E) of the Honor Code**

1. Initiation of Proceeding

When a student is found guilty by the Honor Board of a violation of the Honor Code, or pleads guilty to a violation of the Honor Code in a proceeding brought before the Honor Board, the chairperson of the Honor Board, within five class days after the finding or plea of guilty is made, shall deliver to the Committee

- a. a written statement, signed by the chairperson of the Honor Board as complainant, that sets forth the charges against the student, the finding or plea of guilty, the sanctions recommended by the Honor Board, and a request by the Honor Board that the Committee impose sanctions on the student pursuant to Section VI of the Honor Code; and
- b. the record in the case together with the audio-recording of the hearing before the Honor Board.

2. The Committee shall, within two class days of its receipt of the items enumerated in Paragraph V.G.1 hereof, deliver to each of the student and the dean a copy of the written statement described in Paragraph V.G.1.a hereof.
3. Answer  
The student shall, within five class days after receipt from the committee of a copy of the written statement described in Paragraph V.G.1.a hereof, deliver to the Committee a signed written answer that states that the student
  - a. requests the Committee to follow the recommendations of the Honor Board in imposing sanctions pursuant to Section VI of the Honor Code; or
  - b. requests the Committee, in imposing sanctions pursuant to Section VI of the Honor Code, to impose a lesser sanction than that recommended by the Honor Board; or
  - c. appeals the finding by the Honor Board that the student is guilty of a violation of the Honor Code.

If the student fails to submit a proper and timely answer, the Committee may consider such a failure as a request that the Committee follow the recommendations of the Honor Board in imposing sanctions pursuant to Section VI of the Honor Code.

4. Upon timely receipt of the student's answer, the Committee shall, if necessary, set a hearing date. That date shall not be less than fourteen days nor more than twenty-one days after receipt of the student's answer and shall give to the student, the dean, the chairperson of the Honor Board, and to each witness known to the Committee at least seven days' notice of the time and place of the hearing.
5. If a student elects to accept the Honor Board's findings and recommendations under Rule V.G.3.a. and the Committee determines that the Honor Board's proposed sanctions are appropriate, then the Committee may issue a summary affirmance adopting those findings and imposing those sanctions. In this circumstance, the Committee shall attach the relevant Honor Board document or documents to its summary affirmance. Such summary affirmance shall serve as the Committee's written decision.
6. If the student elects to accept the Honor Board's findings of guilt, but requests that the Committee impose a lesser or alternative sanction under Rule V.G.3.b., then the Committee may issue a summary affirmance of the Honor Board's factual findings. In this circumstance, the Committee shall attach the relevant Honor Board document or documents to its summary affirmance. Such summary affirmance shall serve as the Committee's written decision relating to the question of guilt. The Committee shall then make an independent determination of appropriate sanction pursuant to Rule III.B.2 and issue a written decision relating to the question of sanction in accordance with Rule V.A.
7. If the student appeals the Honor Board's finding of guilt under Rule V.G.3.c., then the Committee shall not reverse that finding of guilt unless it is found to be

arbitrary, capricious, or lacking in a substantial factual basis. In its discretion, however, the Committee may decide to hear de novo any appeal from an Honor Board finding of guilt. If the Committee elects to hear de novo an appeal from an Honor Board finding of guilt, then it shall conduct a hearing and issue a written determination pursuant to Rule V.A. The Committee shall notify the student, the dean, and the chairperson of the Honor Board of its decision to review de novo an Honor Board finding of guilt when providing notice of the date, time, and place of the hearing.

Adopted 1989; amended 1989, 2003, 2006, 2017, 2019.